

R430-90-8 and R430-50-8: ADMINISTRATION

Purpose

This section provides rules and information about the administration of the facility.

Licensed Family 90-8:

(1) The licensee is responsible for all aspects of the operation and management of the child care program.

Residential Certificate 50-8:

(1) The certificate holder is responsible for all aspects of the operation and management of the child care program.

Rationale / Explanation

The Licensee/Certificate Holder may delegate responsibilities under this rule to a designee. However, ultimate responsibility for compliance with all licensing/certificate rules rests with the Licensee/Certificate Holder. In order to ensure that the delegated duties are completed as assigned, the Licensee/Certificate Holder must ensure that he/she has adequate oversight of the person to whom duties have been delegated.

Enforcement

The non-compliance level depends on the non-compliance of the rule found out of compliance.

Any time there is a child in care (meaning the care in lieu of parental care of an unrelated child) the Licensee or Certificate Holder must be in compliance with licensing rules. This includes care provided at the facility by anyone at any time. This also includes care provided at another location when the children in care are the responsibility of the Licensee or Certificate Holder.

If a provider participates in a religious or civic activity with children age 12 and under, the religious or civic organization is the responsible party. Child Care Licensing rules would only apply if the provider is simultaneously providing care for any children in care.

Licensed Family 90-8:

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

Residential Certificate 50-8:

(2) The certificate holder shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

Rationale / Explanation

This rule is intended to address problems which are not already addressed in other child care licensing/certificate rules, but which involve the violation of a federal, state, or local law or administrative rule of another agency that applies to the operation of a child care program

Enforcement

Level 1 Noncompliance if:

- a Licensee/Certificate Holder fails to submit the Annual Immunization Report.
- children in care are using cribs that do not meet the CPSC standard.

Level 3 Noncompliance if a Licensee does not have documentation for cribs purchased after July 2011.

When assessing compliance with CPSC crib standards, check the tracking label or registration form for the crib. When the label or form shows the crib was manufactured after June 28, 2011, the crib is in compliance with the CPSC standard. When Providers state the crib was purchased after June 28, 2011 and they do not have a tracking label or registration form, instruct them to contact the CPSC's Office of Compliance and Field Operations at jjirgl@cpsc.gov and request documentation that the crib was purchased after June 28, 2011. It is unlikely that cribs purchased prior to June 28, 2011 are in compliance with CPSC standards but Providers can contact the manufacturer or retailer to see if the crib has been certified.

If the law or rule from one agency is more strict than another the licensee must follow the strictest of the two.

A finding for this rule is issued only when there is not another licensing/certificate rule that addresses a problem. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing/certificate rules.

Licensed Family 90-8:

(3) The licensee shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

Residential Certificate 50-8:

(3) The certificate holder shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

Rationale / Explanation

This rule is intended to address problems which are not already specifically mentioned in other child care licensing rules, but which jeopardize children's well-being.

Enforcement

A finding for this rule is issued only when there is not another licensing/certificate rule that addresses a problem. The noncompliance level depends on the law or rule found out of compliance Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing/certificate rules.

Licensed Family 90-8:

(4) The licensee shall take all reasonable measures to protect the safety of each child in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers any child in care.

Residential Certificate 50-8:

(4) The certificate holder shall take all reasonable measures to protect the safety of each child in care. The certificate holder shall not engage in activity or allow conduct that unreasonably endangers any child in care.

Rationale / Explanation

This rule is intended to address problems which may arise that are not specifically mentioned in other child care licensing rules, but which jeopardize children's safety.

Enforcement

Level 2 Noncompliance if:

- there are open, unscreened second floor or higher windows
- a child's elbow is dislocated after his/her arm is jerked or pulled or the child is lifted or swung by his/her arm

Level 3 Noncompliance for open unscreened first floor windows.

Noncompliance to this rule includes jerking, pulling, lifting or swinging a child by the arm(s), which can cause a partial dislocation of the elbow, also referred to as Nursemaid's Elbow.

A finding for this rule is issued only when there is not another licensing/certificate rule that addresses a problem. The noncompliance level depends on the law or rule found out of compliance. Child Care Licensing staff will compare the seriousness of the law or rule violated with the noncompliance levels of the most similar child care licensing/certificate rules.

Licensed Family 90-8:

(5) Either the licensee or a substitute with authority to act on behalf of the licensee shall be present whenever there is a child in care.

Residential Certificate 50-8:

(5) Either the certificate holder or a substitute with authority to act on behalf of the certificate holder shall be present whenever there is a child in care.

Rationale / Explanation

The purpose of this rule is to ensure that there is always a qualified individual on-site who assumes responsibility for the protection of children's health and safety.

Enforcement

If caregivers fail to comply with one or more rules (due to an absent Licensee/Certificate Holder or substitute), the noncompliance level depends on the rule(s) that was out of compliance.

Licensed Family 90-8:

(6) Each week, the licensee shall be present at the home at least 50% of the time that one or more children are in care.

Residential Certificate 50-8:

(6) Each week, the certificate holder shall be present at the home at least 50% of the time that one or more children are in care.

Rationale / Explanation

The well-being of the children in the home depends largely upon the knowledge, skills, and dependable presence of a Licensee/Certificate Holder who is able to respond to long-term and immediate needs, and who is able to make appropriate decisions to protect the health and safety of the children in care.

Enforcement

Always Level 3 Noncompliance.

This rule does not prevent Licensees/Certificate Holders from taking vacations for up to 30 days, sick leave, maternity leave, etc. Time gone for these reasons is not included in the 50% of the time the Licensee/Certificate Holder must be present.

Licensed Family 90-8:

(7) There shall be a working telephone in the home. The licensee shall inform the parents of each child in care and the Department of any changes to the licensee's telephone number within 48 hours of the change.

Residential Certificate 50-8:

(7) There shall be a working telephone in the home. The certificate holder shall inform the parents of each child in care and the Department of any changes to the certificate holder's telephone number within 48 hours of the change.

Rationale / Explanation

The purpose of the rule is to ensure that the Licensee/Certificate Holder can contact the parents of children in care, that the parents of children in care can contact the Licensee/Certificate Holder, and that the Licensee/Certificate Holder can always contact emergency personnel (fire, police, ambulance, etc.) if needed. *CFOC, 3rd Ed. Pg. 243 Standard 5.3.1.12.*

Enforcement

Level 2 Noncompliance if there is no working telephone in the home.

Level 3 Noncompliance if the home has a working telephone, but the Licensee/Certificate Holder does not notify parents or the department of a change in phone number.

If the phone is a cell phone and it is not on site, this rule will be considered in compliance as long as there is a way for staff member to call 911.

Licensed Family 90-8:

(8) The licensee shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's individualized medical treatment plan identified by the parent. The licensee shall also mail or fax a written report to the Department within five days of the incident.

Residential Certificate 50-8:

(8) The certificate holder shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's individualized medical treatment plan identified by the parent. The certificate holder shall also mail or fax a written report to the Department within five days of the incident.

Rationale / Explanation

The purpose of this rule is so that the Department can work with Licensees/Certificate Holders to correct unsafe or unhealthy conditions and to prevent future or additional harm to children *CFOC, 3rd Ed. pg. 383 Standard 9.4.1.10*

Enforcement

Level 1 Noncompliance for not reporting a fatality.

Level 3 Noncompliance otherwise.

For the purposes of this rule, emergency medical response means a call to 911 (or the police, ambulance, or fire department, if any of these are called because of an injury to a child).

Attention from a health care provider means **the child was physically seen and examined by a health care professional**. Center staff must report injuries that require attention from a health care provider as soon as they become aware of the visit to the health care provider (for example, in situations where the parent took the child to a health care provider after leaving the home).

When an accident/injury report is received but licensing did not receive notification of the accident/injury within 24 hours, a finding will be issued.

To be in compliance with this rule the provider may choose to email the accident/injury report.

If a provider's child under age four has an accident or injury, all required documentation and reporting must be completed.

The days will be calculated as the working days of the Child Care Licensing Program. This rule will be considered in compliance if the provider notifies the Department by the next Department working day.

Whenever the parents are on site and have taken responsibility for their own children, if the child is injured a report is not required.

Providers may notify licensing of an indecent, accident, or injury in a variety of ways including, email, mail, or fax.

Licensed Family 90-8:

(9) The licensee shall establish, and shall ensure that all providers follow, written policies and procedures for the health and safety of each child in care. The written policies and procedures shall address at least the following areas:

- (a) direct supervision and protection of each child at all times, including when he or she is sleeping, outdoors, and during off-site activities;**
- (b) procedures to account for each child's attendance and whereabouts;**
- (c) the licensee's policy and practices regarding sick children, and whether they are allowed to be in care;**
- (d) recognizing early signs of illness and determining when there is a need for exclusion from care;**
- (e) discipline of children, including behavioral expectations of children and discipline methods used;**
- (f) transportation to and from off-site activities, or to and from home, if the licensee offers these services; and**
- (g) if the program offers transportation to or from school, policies addressing:**
 - (i) how long a child will be unattended by a provider before school starts and after school lets out;**
 - (ii) what steps will be taken if a child fails to meet the vehicle; and**
 - (iii) how and when parents will be notified of delays or problems with transportation to and from school.**

Rationale / Explanation

The purpose of this rule is to ensure that Licensees have written policies in place to protect children's health and safety. An organized, comprehensive approach to ensuring children's health and safety is necessary in child care programs. Such an approach requires written plans, policies, and procedures, and adequate record-keeping so that there is consistency over time and across staff, as well as an understanding between parents and caregivers. This allows clear expectations to be communicated to staff, and helps Licensees train and hold staff responsible for following the written policies. *CFOC, 3rd Ed. pgs. 348-350 Standards 9.2.1.1, 9.2.1.2, 9.2.1.3, pg. 351 Standard 9.2.1.6.*

Enforcement

Always Level 3 Noncompliance.

A finding to this rule is issued if the Licensee does not have any written policies, or has them but does not follow them.

When providers update the center's policies and procedures they must submit the changed procedures to the Child Care Licensing for approval. Once approved, Child Care Licensing will have them scanned and send the approved policies back to the owner/director.

For the purpose of this rule, walking the children to school is considered transporting them. In this situation, the Licensee must have written policies addressing each item in (g). For (ii) the Licensee can substitute the word “provider” for the word “vehicle”.

Licensed Family 90-8:

(10) The licensee shall ensure that the written policies and procedures are available for review by parents and the Department during business hours.

Rationale / Explanation

Current information on health and safety practices that is developed cooperatively among caregivers and parents invites better compliance with health and safety procedures. *CFOC, 3rd Ed. pg. 349 Standard 9.2.1.2.*

Access to these written policies by parents and staff is important to ensure that all parties understand the Licensee's policies and expectations and to help staff remember and follow the policies. Review of the written policies by the Department is used to determine, in part, the Licensee's compliance with the licensing rules. *CFOC, 3rd Ed. pg. 380 Standard 9.4.1.5*

Enforcement

Always Level 3 Noncompliance.

Licensed Family 90-8:

(11) The licensee shall train and supervise all caregivers and substitutes to:

- (a) ensure their compliance with this rule;**
- (b) ensure they meet the needs of the children in care as specified in this rule; and**
- (c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.**

Residential Certificate 50-8:

(9) The certificate holder shall train and supervise all substitutes to:

- (a) ensure their compliance with this rule;**
- (b) ensure they meet the needs of the children in care as specified in this rule; and**
- (c) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.**

Rationale / Explanation

The purpose of this rule is to ensure that all caregivers have the training and ongoing supervision needed to ensure they protect children's health and safety as required in the licensing rules. *CFOC, 3rd Ed. pgs. 21-22 Standard 1.4.2.1, pgs. 23-24 Standard 1.4.2.3, pgs. 43-44 Standards 1.8.2.2, 1.8.2.3, 1.8.2.4.*

Enforcement

Level 3 Noncompliance including if a caregiver is not adequately trained to report child abuse and neglect to the proper authorities.